

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

Peter M. Smith, :
Plaintiff, :
: :
v. : Civil Action No. 2:14 CV 20
: :
Richard Byrne and :
Darryl Graham, :
Defendants. :
:

ORDER

The Report and Recommendation of the United States Magistrate Judge was filed December 2, 2014. Plaintiff's objections were filed on December 29, 2014.

A district judge must make a *de novo* determination of those portions of a magistrate judge's report and recommendation to which an objection is made. Fed. R. Civ. P. 72(b); 28 U.S.C. § 636(b) (1); *Perez-Rubio v. Wyckoff*, 718 F.Supp. 217, 227 (S.D.N.Y. 1989). The district judge may "accept, reject, or modify, in whole or in part, the magistrate's proposed findings and recommendations." *Id.*

After careful review of the file and the Magistrate Judge's Report and Recommendation, no objections having been filed by any party, this Court ADOPTS the Magistrate Judge's recommendations in full for the reasons stated in the Report.

The Defendants' Motion to Dismiss (Doc. 10) is GRANTED. It is further ordered that plaintiff be allowed 30 days leave from the date of this order to amend his complaint. Failure to file a timely amended complaint will result in the dismissal of

the case with prejudice.

Dated at Burlington, in the District of Vermont, this 23rd day of January, 2015.

/s/ William K. Sessions III
William K. Sessions III
District Court Judge